IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION NO. 2619 OF 2006

M/s.Associated Capsules Pvt.Ltd..... Petitioner.
Versus
State of Maharashtra & Ors.. ... Respondents.

Mr. R. V. Singh i/by Mr. Rohit Shetty
for the Petitioner.
Ms.Geeta Shastri, AGP for Respondent No.1.
Mr.Sarang Aaradhye Mr. R.V.Govilkar
for Respondent No.2.

CORAM : SWATANTER KUMAR, C.J. &
DR.D.Y.CHANDRACHUD, J.

DATED : 29TH SEPTEMBER, 2007.

P.C.:

The petitioner in this writ petition under Article 226 of the Constitution of India prays for issuance of an appropriate writ or other directions directing respondent No.3 to consider the application of the petitioner dated 13th August, 2003 under the "ORANGE" category and dispose off the same in accordance with law. The grievance is that the petitioner, who is not manufacturing drugs but is only manufacturing empty gelatine capsules, which are sent to their customers, who in turn fill it with life saving drugs, has been wrongly put in RED category and thus adversely affecting the rights of the petitioner.

2. In this regard, the petitioner also relies upon the extract of the minutes of the Board Meeting of Dahanu Taluka Environment Protection Authority, wherein reference has been made, in clause 3.03, to the order of the Supreme Court and in clause 3.04 whereby the petitioner was granted liberty to approach this Court or the State Government. On this premise, the petitioner has approached this Court having failed to get any redress. The petitioner has also placed on record the order of the Supreme Court dated 31st October, 1996 passed in Civil Writ Petition (C) No. 231 of 1994 **(Bittu Seghal & Anr. v/s Union of India & Ors.)**, wherein the Supreme Court has observed that it may be better that it is supervised by the State Government and the High Court. In reply affidavit filed on behalf of respondent No.2, it is stated as under:

> "4. I say that, the ‘bulk drug manufacturing industries’ are shown as ‘RED’ category industry. Admittedly, the petitioners do not manufacture bulk drugs and only manufactured ‘Two Piece Empty Hard Gelatin Capsules’. These capsules are subsequently sold to various pharma companies, who in turn, filled them with life saving drugs and other medicines for onward supply to hospitals and medical shops. The capsule

manufacturing activity per se falls under 'ORANGE' category. This was clarified by my office and was informed to the Dahanu Taluka Environment Protection Authority (DTEPA) vide letter dated 09/10/2003 and the said document is exhibited by the Petitioner as EXHIBIT - I."

3. Reading of the above stand of respondent No.2 shows that the petitioner does not fall in the RED category as it is not manufacturing life saving drugs.

4. In view of the above circumstances, we dispose of this petition while granting liberty to the petitioner to approach the Dahanu Taluka Environment Protection Authority by filing appropriate application and if such an application is filed by the petitioner, we do hope, the same will be disposed of expeditiously.

5. The writ petition is, accordingly, disposed of with the above observation. No order as to costs.

Sd/-

CHIEF JUSTICE

Sd/-

DR.D.Y.CHANDRACHUD, J.